IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5344 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE JAYANT PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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RAMSANGBHAI KACHARABHAI CHAUDHARY

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 5344 of 2002

MR KS JHAVERI for Petitioner No. 1

Ms.Harsha Devani,AGP for Respondent No. 1-3

MR BAIJU JOSHI for Respondent No. 4-10

CORAM : MR.JUSTICE JAYANT PATEL

Date of decision: 05/07/2002

ORAL JUDGEMENT

Rule. Ms.Harsha Devani, Ld.AGP appears for respondent Nos 1 to 3 and Mr.Baiju Joshi appears for respondent 4 to 10 and waives service of rule

respectively. With the consent of parties, matter is taken up for final hearing today.

2. The petitioner has preferred this petition against the order dated 30.5.02 passed by the State Govt whereby the revision is allowed and the order of the Dist.Registrar dated 1.2.02 and the Additional Registrar dated 3.4.02 whereby the members of the society were removed under section 76B of Gujarat Cooperative Societies Act and the appointment of custodian made under section 74D of the Act are set aside, respectively.

3. After the arguments, both sides, namely, Mr.Zaveri appearing for the petitioner under instructions and Mr.Joshi appearing on behalf of respondent Nos 4 to 10 agreed that they have no objection if the fresh election of the members of the Managing Committee of Shri Chitroda Doodh Utpadak Sahakari Mandali Ltd is held by any officer who may be nominated by the District Registrar other than Shri C.P.Patel. They have also agreed that until the newly elected body assumes the office, the present Board may be allowed to continue but with a restriction that they shall function only for day to day operation and they shall not incur expenses for any other purpose and shall incur expenses only for day to day purpose and shall not take any policy decision. Ms.Devani, Ld.AGP states that there is no difficulty in holding the election, if directed by this court through the officer who may be nominated by the District Registrar for the said purpose.

4. In view of the above, I am of the opinion that the following directions would meet with the ends of justice:

(i) The District Registrar, Mehsana, shall depute some officer from his office other than C.P.Patel for holding the election of the members of the Managing Committee of Shri Chitroda Doodh Utpadak Sahakari Mandali Ltd to see that the election of the members of the Managing Committee of the said society is held within one month from the date of receipt of writ of this court. If the concerned officer finds that there is law and order problem, the State authority shall provide police assistance if required.

(ii) Until the election as directed is held and until the newly elected body assumes the office, the present Body shall continue but with restriction that they shall incur expenses only for day to

day work of the society and they shall not incur any expenses for any other purpose or shall not take any policy decision and they shall also not admit any new member.

(iii) The present body shall also handover the charge to the newly elected body.

5. In view of the above directions for holding the election and since until the newly elected body is to take charge of the office within the period of one month as indicated above, the orders passed by the lower authorities under sections 76B and 74D of the Act shall not survive.

6. Petition is allowed to the aforesaid extent. Rule is made absolute accordingly. There shall be no order as to costs.

5.7.02 (JAYANT PATEL,J)